

● MANAGING UNREASONABLE CONDUCT POLICY

Policy no: BP17

● Policy detail

Policy description	This policy aims at clearly establishing Unreasonable Conduct, to assist Members, Volunteers, Activists and staff in understanding their rights and responsibilities throughout any AIA event or process.
Policy applies to:	AIA directors (board members), Members, staff, Volunteers, Activists, Complainants
Policy owner:	Chair, Governance Committee
Related policies:	Constitution, Code of Conduct Values and Behaviours Charter, Appeal Policy, Internal Conflict Resolution Policy, Grievance Policy and Procedures (where employees are implicated).

● Policy approval

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1. Policy scope and overview

1.1 Introduction

It is good practice for Amnesty International Australia (AIA) to have in place a policy to clearly establish Unreasonable Conduct, to assist Members, Volunteers, Activists and staff in understanding their rights and responsibilities throughout any AIA event or process.

AIA implements this policy in writing to ensure transparency, consistency, accountability, and fairness for all parties. It sets out key components for dealing with Unreasonable Conduct, including roles and responsibilities, definitions and the processes that will be deployed and reviewing decisions under this policy.

This policy has been developed with reference to the ‘Managing unreasonable conduct by complainants’ model policy developed by the Office of the New South Wales Ombudsman as published in August 2021.

1.2 Scope

This policy applies to AIA directors (board members), Members, staff, Volunteers, Activists, Complainants and any person attending an AIA event and is to be read in conjunction with the following:

- AIA Constitution
- Code of Conduct
- Values and Behaviours Charter
- Appeal Policy
- Internal Conflict Resolution Policy
- Grievance Policy and Procedures (where employees are implicated).

1.3 Overview

AIA is, first and foremost, a movement of the people for the people. With such a movement there will be passion and high emotion. This policy assists AIA in placing parameters around what is acceptable, and gives those who need it the authority to manage when people's behaviours are such that they threaten the safety of others (including psychological safety), pose a risk of psychological impact or illness or when they impede the conduct of normal business. This policy also recognises that, as an employer, AIA has a duty of care to all staff.

2. Defining unreasonable conduct

2.1 Key Definitions

Term	Definition
Activist	An individual who takes part in actions such as letter writing, signing petitions or demonstrating.
Chair	Chair of the National Board, Chair of a meeting or event or a Chair's delegate.
Complaint	A Complaint is an expression of dissatisfaction, to which a response or resolution is explicitly or implicitly expected, in relation to: <ul style="list-style-type: none">• an AIA stance, event or campaign;• the operation and management of AIA; or• actions of individuals acting on behalf of AIA.
Complainant	A person who makes a Complaint under any AIA complaints procedure.
Dispute	A dispute is usually a Complaint which has been through the complaint handling process and has not been resolved to the satisfaction of the complainant(s).
Member	An individual who is a member under the AIA Constitution.
Supporter	An individual who makes a donation to AIA.
Volunteer	An individual who volunteers their time with AIA, usually recruited through the AIA External Volunteer Recruitment process.

2.2 Unreasonable Conduct

'Unreasonable Conduct' is any behaviour by a person which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for AIA, AIA staff or other Members, Activists, Volunteers and/or stakeholders. Unreasonable conduct can be divided into five categories of conduct, which includes, without limitation:

1. **Unreasonable persistence** – continued, incessant and unrelenting conduct by a person, including an unwillingness to accept reasonable explanations, persistently demanding review simply because it is available or when AIA has explained a review is not warranted, repeated unnecessary correspondence, and refusing to accept AIA cannot or will not take further action.
2. **Unreasonable demands** – any demands expressly made by a person that has a disproportionate impact on AIA, staff, time or resources, including issuing instructions as to the handling of a Complaint, its priority or the outcome to be achieved, insisting on talking to senior managers when it is inappropriate, emotional manipulation or falsely portraying themselves as being victimised.
3. **Unreasonable lack of cooperation** – when a person is unwilling or unable to cooperate with AIA or its staff, including refusing to follow or accept instructions, suggestions or advice without a clear or justifiable reason for doing so.
4. **Unreasonable arguments** – arguments not based on any reason or logic, that are incomprehensible, false, inflammatory, trivial, delirious, defamatory or that disproportionately impact on AIA, staff, time or resources.
5. **Unreasonable behaviour** – conduct that is unreasonable in all circumstances as it comprises the health, safety and security of AIA staff, or is deemed to be of a nuisance to other persons in conducting their own affairs.

3. Roles and responsibilities

3.1 All staff, directors, Members, Activists and Volunteers

All directors, staff, Members, Activists and Volunteers of AIA may face unreasonable conduct by people, and are therefore responsible for familiarising themselves with this policy, and are encouraged to explain this policy to all persons who engage in Unreasonable Conduct.

Any strategies that change or restrict a person's access to AIA must be approved by the Chair or other delegate.

Staff are responsible for recording and reporting all Unreasonable Conduct incidents they experience or witness to the Chair within 24 hours of the incident occurring.

3.2 The Chair

The Chair is responsible for approving changes to the person's access to AIA. They will aim to impose changes or restrictions in the least restrictive ways possible. The purpose when taking such actions is not punitive, but rather to manage the impacts of their conduct.

The Chair is also responsible for maintaining a Unreasonable Conduct register, in the form of an internal database that records all incidents of UC, including the person's name, the date and details of the incident so as to better inform AIA's response to future Unreasonable Conduct.

Where the Unreasonable Conduct relates to behaviour at an event, the Chair (or meeting organiser) will take immediate action to manage the conduct and to limit the impact of the person's behaviour on the meeting. Any action taken will be documented per above.

4. Responding to and managing UC

AIA comprises employees (staff), the Board, Board Committees, the Activist Leadership Committees and Regional Presidents, Members, Activists and Volunteers as well as external stakeholders, all of whom may face Unreasonable Conduct. AIA may respond to Unreasonable Conduct through any of the following methods, without limitation:

- Limiting the person's contact with AIA to one person.
- Limiting the subject matter of communications.
- Limiting when, through what platform, and how often a person can contact AIA.
- Limiting how a person makes contact with AIA, such as in writing only, or 2-minute phone calls.
- Restricting the person's access to meetings, webinars, and any other AIA events.
- Requiring the person to contact AIA through a representative only. The representative can be nominated by the person but must be approved by the Chair.
- Terminating the person's access to AIA and its people altogether, where the person is unlikely to modify their conduct or their conduct poses a significant risk.
- If the person is a Member, their membership can be suspended or revoked under clause 11.5 of the AIA constitution.
- If the Unreasonable Conduct relates to a meeting or an event, the person may be restricted in terms of access, speaking time, and may be expelled from the meeting if warranted by the Chair or meeting organiser.

Examples of how the Policy may be applied in practice are included as Appendix A.

5. Alternative Dispute Resolution (ADR)

Where the Chair determines that AIA cannot terminate a person's Access to AIA, or where AIA staff bear some responsibility for causing or exacerbating the conduct, AIA may instead manage the matter under the ADR policies. These include the Appeals Policy, the Internal Conflict Resolution Policy, and the Grievance Policy and Procedures (where staff are implicated).

In some circumstances of Unreasonable Conduct, ADR may not be an appropriate or effective strategy, particularly where the person is uncooperative or resistant to compromise. Therefore, each case will be assessed on its own facts to determine the appropriateness of this approach.

6. Procedures for responding to UC

6.1 Criteria for consideration when restricting a person's access to AIA

When deciding whether to restrict a person's access to AIA, together with any history of UC the person has on record at AIA, the following criteria will be considered:

- Whether the conduct involved overt anger, aggression, violence or assault, which AIA considers unacceptable in all circumstances.
- The likelihood the person will change their behaviour.
- Whether restricting access will unduly impact the person's welfare or livelihood.
- Whether the person's circumstances (e.g. communication barriers, forms of disability, personal crises, substance abuse) have contributed to their behaviour.
- The level to which the conduct was disproportionate to the issue.

6.2 Notifications to the person

Unless a person's conduct poses a substantial risk to the health, safety and security of anyone at AIA, the Chair will provide them with a warning letter about their conduct in the first instance. This will specify the details of the incident, explain why the conduct is problematic, provide full reasons for the warning being given, attach this policy so as to explain what constitutes inappropriate conduct, and provide the name and contact details of the staff member with whom the person can discuss the matter.

If Unreasonable Conduct continues after a written warning, or where Unreasonable Conduct poses a substantial risk to health, safety and security, the Chair has the discretion to send a notification letter immediately restricting the person's access to AIA. This letter will specify the details of the incident, explain why the conduct is problematic, explain what restrictions are being imposed and their implications for the person, provide full reasons for the restrictions, specify the duration of the restrictions, and provide the name and contact details of the staff member with whom the person can discuss the matter. This action may be taken retrospectively where the Unreasonable Conduct was evident in a meeting or public space.

6.3 Notifying staff about changes

The Chair will notify relevant staff about any decisions to change or restrict a person's access to AIA, in particular reception and security staff in cases where a person is prohibited from entering AIA premises.

7. Appealing the decision

See AIA's Appeals Policy for appropriate avenues of review.

Appendix 1

Example Scenarios to assist with illustrating how the Policy might be applied in practice.

Scenario 1

A Committee member puts undue pressure on a staff member to undertake a task.

Unreasonable Conduct

1. Unreasonable demands – The action is undertaken without delegation to commit staff resources to undertake a task which has not been identified as a priority by the staff member or their manager.
2. Unreasonable persistence – Where the action continues beyond the identification and requests to cease.

In this context, undue pressure may take many forms, including but not limited to: overly frequent emails to that staff member, or communicating in an aggressive or otherwise inappropriate tone.

The impact of the unreasonable conduct caused stress and had other psychological impact on the staff member, leading to time off work.

Purpose of response

A response should be made in accordance with the policy with the purpose of ensuring the safety, including psychological safety, of the staff member.

If behaviour persists

The line manager informs the National Director who should raise with the Chair and explain the response to date.

In this instance, the Chair should reaffirm the staff member's response to the Committee Member.

The Chair should confirm the response and state continued demands will constitute Unreasonable Conduct.

If persistence ensues

With reference to the Unreasonable Conduct Policy, the Chair will inform the Committee Member that continued behaviour will result in a response detailed in the Policy, including restriction of access to staff, ceasing their position on the Committee and possible suspension/revocation of membership.

Scenario 2

An activist contacts the Supporter Care Team ('SCT') regarding a political issue (e.g. the Voice) and demands Amnesty act or respond in a particular way.

Unreasonable Conduct

1. Unreasonable persistence – the conduct of the individual is 'incessant and unrelenting', including their unwillingness to accept reasonable explanations and refusing to accept that AIA cannot or will not take further action.
2. Unreasonable demands – the individual's demands are disproportionate for AIA's staff, time and resources.

In this context, an individual's unreasonable demands may take many forms, including but not limited to: too frequently contacting the SCT on the same issue, communicating in an aggressive or otherwise inappropriate tone, or using inappropriate avenues to contact Amnesty when they have been directed to reach out to a particular person/team/branch.

The impact of the conduct was that the staff member felt unsafe due to the verbal aggression directed towards them.

Purpose of response

A response should be made in accordance with the policy with the purpose of fulfilling the duty of care owed to staff members.

If behaviour persists

The SCT member should identify the behaviour as Unreasonable Conduct and should state that persistence will result in the Unreasonable Conduct Policy being invoked. They should brief their line manager after speaking with the individual.

If persistence ensues

As an activist is not a member, the SCT would be justified in ceasing communication with the activist.

Scenario 3

A Member of an Activist Leadership Committee demands a change in priority focus for campaign

Unreasonable Conduct

1. Unreasonable arguments – Pressing a personal preference without sound reason or logic
2. Unreasonable lack of cooperation – Continuing to argue for change after the Chair of the Committee has determined the majority vote / priority for campaign
3. Unreasonable persistence – Continuing to argue creates an unproductive distraction for members

In this context, the Member's unreasonable demands may take many forms, including but not limited to: consistently disrupting the meeting to make their demands or communicating their demand in an aggressive or otherwise inappropriate tone.

The impact of the conduct was that other members felt psychologically unsafe and did not feel that the meeting was a safe space in which to share their views.

Purpose of response

A response should be made in accordance with the policy with the purpose of ensuring the safety, including psychological safety of ALC members.

The Chair of the Committee should call for the focus of all members.

If behaviour persists

The Chair of the Committee should inform the appropriate staff member who should then inform the National Director.

The National Director (as Chair's Delegate) should listen to the Committee Member's request and if unfounded (without sound reason) should, with reference to the Unreasonable Conduct Policy, explain that the behaviour constitutes Unreasonable Conduct.

The National Director should brief the Chair as to the member's behaviour.

If persistence ensues

With reference to the Unreasonable Conduct Policy, the Chair will inform the Committee Member that their access to meetings and/or staff may be restricted and continued behaviour may lead to terminating the person's access to AIA and/or suspension/revocation of membership.